

1 WEISS & JONES, LLP
Philip E. Weiss (No. 152523)
2 1551 Shelter Island Drive
San Diego, California 92106
3 Telephone: (619) 225-8884
Facsimile: (619) 225-8801
4 E-Mail: shiplaw@earthlink.net

5 Attorney for Plaintiff
SHELTER ISLAND YACHTWAYS, LTD,
6 a California Limited Partnership,
dba SHELTER ISLAND BOATYARD
7

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 SHELTER ISLAND YACHTWAYS, LTD, a
California Limited Partnership, dba SHELTER
11 ISLAND BOATYARD,

12 Plaintiff,

13 v.

14 M/Y SUNDANCE, Official No. 521498, A
HATTARAS MOTORYACHT OF
15 APPROXIMATELY 33 FEET IN LENGTH
AND 12 FEET IN BEAM, AND ALL OF HER
16 ENGINES, TACKLE, ACCESSORIES,
EQUIPMENT, FURNISHINGS AND
17 APPURTENANCES, *in rem*,

18 Defendant.
19

Civil No. 07 CV 2015 DMS WMc
IN ADMIRALTY
REQUEST TO ENTER DEFAULT

20 TO: THE CLERK OF THE ABOVE-ENTITLED COURT

21 Plaintiff SHELTER ISLAND YACHTWAYS, LTD, a California Limited Partnership,
22 dba SHELTER ISLAND BOATYARD respectfully requests that the Clerk of this Honorable
23 Court enter Default in this action against the following Defendant, on the ground that no
24 person or entity has appeared on her behalf to answer or otherwise responded to the Verified
25 Complaint within the time prescribed by the Federal Rules of Civil Procedure: M/Y
26 SUNDANCE, Official No. 521498, A HATTARAS MOTORYACHT OF
27 APPROXIMATELY 33 FEET IN LENGTH AND 12 FEET IN BEAM, AND ALL OF HER
28

REQUEST TO ENTER DEFAULT

1 ENGINES, TACKLE, ACCESSORIES, EQUIPMENT, FURNISHINGS AND
2 APPURTENANCES.

3 Service of the Summons, the Verified Complaint and other documents offered in connection
4 with and in support of the instant vessel arrest in this action was effected on October 17, 2007 on the
5 documented owner of the DEFENDANT VESSEL, as evidenced by the Declaration of Service
6 which is hereto attached as Exhibit A and which is on file in this action:

7 Mr. Wayne Oliver [Defendant Vessel's Documented Owner]
8 P.O. Box 3179
9 Kerby, OR 97531-3179

10 Neither the above named individual, nor any other person or entity, have intervened or
11 otherwise appeared in this action, and none has responded to the Verified Complaint on behalf of the
12 Defendant Vessel within the time prescribed by the Federal Rules of Civil Procedure.

13 Attached hereto as Exhibit B is a true and correct copy of a U.S. Marshal Form 285 reflecting
14 that on November 8, 2007 a Deputy U.S. Marshal served the Verified Complaint and other vessel
15 arrest documents on the Defendant Vessel by placing copies aboard.

16 Moreover, no party or person has, as required by Supplemental Admiralty Rule C(6)(a)(i),
17 filed a Statement of Interest in or Right Against the Property within 30 days after publication is
18 completed pursuant to Supplemental Admiralty Rule C(4). The completion of the required
19 publication is evidenced by the true and correct copy of the U.S. Marshal Certificate of Publication
20 attached hereto as Exhibit C.

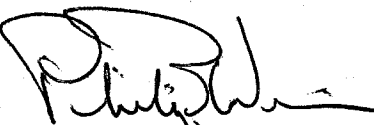
21 The above stated facts are set forth in the accompanying Declaration of Philip E. Weiss, filed
22 herewith.

23 DATED: December 17, 2007

Respectfully submitted,

WEISS & JONES

25 By



Philip E. Weiss
SHELTER ISLAND YACHTWAYS, LTD,
a California Limited Partnership,
dba SHELTER ISLAND BOATYARD

WEISS & JONES
Philip E. Weiss, Esq. (No. 152523)
1551 Shelter Island Drive
San Diego, California 92106
Telephone: (619) 225-8884
Facsimile: (619) 225-8801

Attorney for Plaintiff
SHELTER ISLAND YACHTWAYS, LTD,
a California Limited Partnership,
dba SHELTER ISLAND BOATYARD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'07 CV 2015 DMS WMC

SHELTER ISLAND YACHTWAYS, LTD, a
California Limited Partnership, dba SHELTER
ISLAND BOATYARD,

Plaintiff,

v.

M/Y SUNDANCE, Official No. 521498, A
HATTARAS MOTORYACHT OF
APPROXIMATELY 33 FEET IN LENGTH
AND 12 FEET IN BEAM, AND ALL OF HER
ENGINES, TACKLE, ACCESSORIES,
EQUIPMENT, FURNISHINGS AND
APPURTENANCES, *in rem*,

Defendant.

Case No.

IN ADMIRALTY

DECLARATION OF SERVICE

F.R.C.P. Supplemental Admiralty
Rules C and E.

46 U.S.C. Sections 30101-31343

DECLARATION OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in San Diego County, State of California. I am over the age of eighteen (18)
and not a party to this action; my business address is 1551 Shelter Island Drive, San Diego,
California 92106. On October 17, 2007, I served the following document(s) described as:

- Summons in a Civil Action
- Civil Cover Sheet

- 1 – **Verified Complaint of Plaintiff Shelter Island Yachtways For Vessel Arrest,**
- 2 **Interlocutory Sale And for Money Damages for: (1) Trespass, (2) Fraud In The**
- 3 **Inducement, (3) Breach Of Implied Maritime Contract, (4) Quantum Meruit**
- 4 – **Ex Parte Application for Order Authorizing Issuance of a Warrant for Arrest of**
- 5 **Defendant Vessel**
- 6 – **Declaration of Philip E. Weiss In Support of Vessel Arrest**
- 7 – **[Proposed] Order Authorizing Arrest of Defendant Vessel Pursuant to**
- 8 **Supplemental Admiralty Rule C**
- 9 – **Application for Appointment of Substitute Custodian and for Authorization for**
- 10 **Movement of Defendant Vessel**
- 11 – **Declaration of Roy Hobbs In Support of Ex Parte Application for Order**
- 12 **Appointing Substitute Custodian**
- 13 – **[Proposed] Order Appointing Substitute Custodian and Authorizing Movement of**
- 14 **Vessel**
- 15 – **Warrant for Action In Rem**
- 16 – **Notice of Vessel Arrest**

17 on the interested parties in Case No. _____ by placing ☐ the original

18 ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

19 Mr. Wayne Oliver

20 P.O. Box 3179

21 Kerby, OR 97531-3179

22 ☐ **(BY PERSONAL SERVICE):** Personal service accomplished by ☐ attorney service or
23 ☐ _____, employed by Weiss & Jones.

24 ☐ **(BY FACSIMILE AS INDICATED ABOVE):** I caused the foregoing document(s) to be
25 sent via facsimile transmission to the above addressee(s) at the facsimile numbers indicated above.

26 ☒ **(BY MAIL AS INDICATED ABOVE):** As follows: I am "readily familiar" with the firm's
27 practice of collection and processing correspondence for mailing. Under that practice it would be
28 deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at San Diego,

DECLARATION OF SERVICE

Page -2-
Case No.

EXHIBIT **A**

1 California in the ordinary course of business. I am aware that on motion of the party served, service
2 is presumed invalid if postal cancellation date or postage meter date is more than one day after
3 deposit for mailing in affidavit.

4 ☐ (STATE): I declare under penalty of perjury under the laws of the State of California that
5 the foregoing is true and correct.

6 ☒ (FEDERAL): I declare that I am employed in the office of a member of the bar of this court
7 at whose direction the service was made.

8 Dated: October 17, 2007

Tamara A. Geehan

Tamara A. Geehan

9
10 c:\arrest-sdcal-clientsub\proofservice

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF	SHENIER Island Yachtworks, a California Limited Partnership and Shenier Island Boatyard	COURT CASE NUMBER	07CV2015 DMS WME
DEFENDANT	MY SUNLANCE, Official No. 521176, a Hattaras	TYPE OF PROCESS TAKEN	USPS SEIZURE
SERVE	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN		
AT	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)		
	SHENIER Island Boatyard, 2330 SHENIER Island Dr., San Diego, CA 92116		

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:

WELLS & JONES
ATTN: Philip L. Jones, Esq.
1551 SHENIER ISLAND DRIVE
SAN DIEGO, CA 92116

Number of process to be served with this Form - 285

Number of parties to be served in this case

Check for service on U.S.A.

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

PLEASE SEIZE, TAKE INTO CUSTODY and post complaint against documents on the defendant vessel MY SUNLANCE, Official No. 521176, a Hattaras, approximately 33 feet in height and 12 feet in beam, which she lies at SHENIER Island Boatyard, as instructed by court. AS SOON AS POSSIBLE. Please contact Bill Roberts or Ray Hobbs, manager at 619-222-0481, in advance to advise of date and time of seizure. Thank you.

Signature of Attorney or other Originator requesting service on behalf of:

☒ PLAINTIFF
☐ DEFENDANT

TELEPHONE NUMBER

619-225-8884

DATE

10/10/07

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
	1	CA	CA	[Signature]	10/10/07

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

Address (complete only if different than shown above)

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Date of Service: 10/10/07 Time: 10:20 am

Signature of U.S. Marshal or Deputy

[Signature]

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
\$15	5.38		\$50.38			

REMARKS:

NOTE

CERTIFICATE OF PUBLICATION

RECEIVED

2007 NOV 14 A 2:04

U.S. MARSHAL
SOUTHERN DISTRICT OF
CALIFORNIAAndrea Scott
US Marshal
940 Front Street, Room B-150
San Diego CA 92101

IN THE MATTER OF

Vessel Arrest M/Y SUNDANCE

CASE NO.

07-CV 2015IN ADMIRALTY
NOTICE OF VESSEL ARREST
F.R.C.P. Supplemental Rules C and E
46 U.S.C. Sections 60101-61543UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF
CALIFORNIACase No. 07-CV-2015
SHELTER ISLAND YACHTWAYS,
JTC, a California Limited Partnership
dba SHELTER ISLAND BOATYARD,
Plaintiff,v.
M/Y SUNDANCE, Official No. 521495, A
HATTERAS MOTOR YACHT OF
APPROXIMATELY 35 FEET IN LENGTH
AND 12 FEET IN BEAM AND ALL OF
HER ENGINES, TACKLE,
ACCESSORIES, EQUIPMENT,
FURNISHINGS, AND
APPURTENANCES, in rem.
Defendant.NOTICE IS HEREBY GIVEN
pursuant to Rules C and E of the
Supplemental Rules for Certain
Admiralty and Maritime Claims of the
Federal Rules of Civil Procedure and
Local rules of the United States District
Court in and for the Southern District of
California, that on the 8th day of
November, 2007, the United States
Marshal arrested, seized, and took into
its possession the vessel, M/Y
SUNDANCE, Official No. 521495, a
Hatteras Motor Yacht of approximately
35 feet in length and 12 feet in beam,
AND ALL OF HER ENGINES, TACKLE,
ACCESSORIES, EQUIPMENT,
FURNISHINGS, AND
APPURTENANCES, for the causes set
forth in the Verified Complaint, to wit:
Trespass; Fraud; In The Inducement;
Breach of Implied Maritime Contract;
and Quantum Meruit, now pending in the
United States District Court for the
Southern District of California, at San
Diego.The amount demanded in the Verified
Complaint is a sum of \$56.00 per day
beginning September 17, 2007, and
continuing until such time as the
DEFENDANT VESSEL is either
removed from Plaintiff's premises or
until she is taken into custody by the
U.S. Marshal pursuant to Order of this
Court, plus plaintiff's interest and
costs of suit (including attorney's fees).This Arrest was made pursuant to an
Order and Warrant to Arrest issued by
the Clerk of the Court on or about
November 8, 2007.I have given notice to all persons
claiming any interest in said
DEFENDANT VESSEL or in having
anything to say why the same should
not be condemned and forfeited, that
they file their claims pursuant to Rule
C(6), Supplemental Rules to the Federal
Rules of Civil Procedure with the Clerk
of the United States District Court, at
San Diego, and serve a copy of it on
attorneys for Plaintiff, WEISS &
JONES, LLP, within ten (10) days after
the date of this publication, or within
such additional time as the Court may
allow, and must serve their answers
within twenty (20) days after the filing of
their claims, and that all interested
persons should file claims and answers
within the time so fixed, otherwise,
default will be noted and condemnation
ordered against any such person not so
doing.Dated November 8, 2007.
Steven C. Stafford
Acting U.S. Marshal
By: /s/ Toni Wheatley, Deputy U.S.
Marshal
SUBMITTED ON OCTOBER 29, 2007
WEISS & JONES
By: /s/ Philip E. Weiss
Attorneys for Plaintiff
SHELTER ISLAND YACHTWAYS, LTD.,
a California Limited Partnership, dba
SHELTER ISLAND BOATYARD
Pub. Nov. 9-00032832I, Jacqueline R. Burnett, am a citizen of the United States
and a resident of the county aforesaid; I am over the age of
eighteen years, and not party to or interested in the above
entitled matter. I am the principal clerk of the San Diego
Transcript, a newspaper of general circulation, printed and
published daily, except on Saturdays and Sundays, in the
City of San Diego, County of San Diego and which
newspaper has been adjudged a newspaper of general
circulation by the Superior Court of the County of San
Diego, State of California, under the date of January 23,
1909, Decree No. 14894; and the

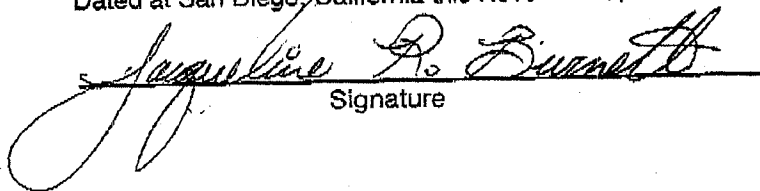
Notice of Vessel Arrest

is a true and correct copy of which the annexed is a printed
copy and was published in said newspaper on the following
date(s), to wit:

November 9

I certify under penalty of perjury that the forgoing is true and
correct.

Dated at San Diego, California this November 9, 2007


Signature

EXHIBIT

C

1 WEISS & JONES
Philip E. Weiss, Esq. (No. 152523)
2 1551 Shelter Island Drive
San Diego, California 92106
3 Telephone: (619) 225-8884
Facsimile: (619) 225-8801
4

Attorney for Plaintiff
5 SHELTER ISLAND YACHTWAYS, LTD,
a California Limited Partnership,
6 dba SHELTER ISLAND BOATYARD

7
8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 SHELTER ISLAND YACHTWAYS, LTD, a
12 California Limited Partnership, dba SHELTER
ISLAND BOATYARD,

13 Plaintiff,

14 v.

15 M/Y SUNDANCE, Official No. 521498, A
16 HATTARAS MOTORYACHT OF
APPROXIMATELY 33 FEET IN LENGTH
17 AND 12 FEET IN BEAM, AND ALL OF HER
ENGINES, TACKLE, ACCESSORIES,
18 EQUIPMENT, FURNISHINGS AND
APPURTENANCES, *in rem*,

19 Defendant.
20

Case No.

IN ADMIRALTY

DECLARATION OF SERVICE

F.R.C.P. Supplemental Admiralty
Rules C and E.

46 U.S.C. Sections 30101-31343

21
22 **DECLARATION OF SERVICE**

23 **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

24 I am employed in San Diego County, State of California. I am over the age of eighteen (18)
25 and not a party to this action; my business address is 1551 Shelter Island Drive, San Diego,
26 California 92106. On December 17, 2007, I served the following document(s) described as:

27 - **Request To Enter Default**

28 - **Declaration of Philip Weiss In Support of Request To Enter Default**

1 on the interested parties in Case No. 07 CV 2015 DMS WMc by placing ☐ the
2 original ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

3 Mr. Wayne Oliver

4 P.O. Box 3175

5 Kerby, OR 97531-3179

6 ☐ **(BY PERSONAL SERVICE):** Personal service accomplished by ☐ attorney service or
7 ☐ _____, employed by Weiss & Jones.

8 ☐ **(BY FACSIMILE AS INDICATED ABOVE):** I caused the foregoing document(s) to be
9 sent via facsimile transmission to the above addressee(s) at the facsimile numbers indicated above.

10 ☒ **(BY MAIL AS INDICATED ABOVE):** As follows: I am "readily familiar" with the firm's
11 practice of collection and processing correspondence for mailing. Under that practice it would be
12 deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at San Diego,
13 California in the ordinary course of business. I am aware that on motion of the party served, service
14 is presumed invalid if postal cancellation date or postage meter date is more than one day after
15 deposit for mailing in affidavit.

16 ☐ **(STATE):** I declare under penalty of perjury under the laws of the State of California that
17 the foregoing is true and correct.

18 ☒ **(FEDERAL):** I declare that I am employed in the office of a member of the bar of this court
19 at whose direction the service was made.

20 Dated: December 17, 2007

Tamara A. Geehan

21 Tamara A. Geehan

22 c:\arrest-sdcal-clientsub\proofservice .
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26
27
28